

ETHICS, OPEN MEETINGS AND PUBLIC RECORDS

CERTIFICATE IN RISK MANAGEMENT

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Recognize these?



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Areas of Concern

- Use of County property
- Preferential treatment
- Use of position/Conflicts of interest
- Political activities

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Ethics and Law

- It is not “just” ethical violations
- Unethical behavior is frequently illegal
- Use of County property for your own purposes is theft
- Preferential treatment may implicate civil rights violations
- Use of your position for personal gain is a violation of the law

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Use of County Property

- Use should only be for County business unless specifically addressed otherwise in County policies and procedures.
- Includes, vehicles, equipment, computers, etc.

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Apparent Conflicts--Ex Parte Contacts

- County officials who act in judicial or quasi-judicial proceedings should not have outside discussion with any party regarding the matter in controversy
- Any such contact should be reported immediately in any hearing, and prior to any discussion, of the matter
- If the other party opposes the continued participation by the official, then the official should withdraw

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Preferential Treatment

- You have an obligation to treat all citizens fairly and equitably
- You may not grant special consideration or advantage to any person that is not available to all
- You may not use your position to gain special favors for friends, relatives or associates.

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17-16a-4. Prohibited Use of Official Position

Disclose Confidential Information Acquired by Reason of Official Position or Use That Information to Secure Special Privileges or Exemptions for self or Others;

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17-16a-4. Prohibited Use of Official Position

Use or Attempt to Use Official Position to Secure Special Privileges for Himself or Others;

Knowingly Receive, Accept, Take, Seek or Solicit, Directly or Indirectly, Any Gift or Loan for Himself or Another If the Gift or Loan Tends to Influence Him in the Discharge of His Official Duties.

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Political Activities

- May not use county funds, facilities, or equipment for political campaigns or endorsements.
- Even during your lunch hour.

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Conflicts of Interest--Business

- Failure to disclose financial interest in an entity that does business with the County or is seeking to do business with the County
- You have a financial interest in any matter in which you participate or have job responsibilities for as part of your County employment.

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Conflicts of Interest--Employment

- No outside employment relationships between supervisor and subordinate
- Accepting employment with any enterprise that is incompatible with your duties and obligations as a County employee.

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17-16a-5. Compensation for assistance in transaction - Public disclosure

- No elected or appointed officer may receive or agree to receive compensation for assisting any person or business entity in any transaction involving the county in which he is an officer unless he files with the county legislative body a sworn statement and discloses in open meeting to the members of the body of which he is a member, immediately prior to the discussion, the information

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The statement and disclosure shall contain the following information:

- (a) the name and address of the officer;
- (b) the name and address of the person or business entity being or to be assisted, or in which the appointed or elected official has a substantial interest; and
- (c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

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17-16a-6. Interest in business entity regulated by county

- The commission shall report the substance of all such disclosure statements to the members of the governing body.
- This section does not apply to instances where the value of the interest does not exceed \$2,000.

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17-16a-6. Interest in business entity regulated by county

- Every appointed or elected officer or employee shall disclose the position held and the precise nature and value of his interest upon first becoming appointed or elected, and again during January of each year.
- The disclosure shall be made in a sworn statement filed with the county legislative body.

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17-16a-7. Interest entity doing business with county

- Every appointed or elected officer who is an officer, director, agent, or employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the county, shall publicly disclose to the members of the body on which he is a member immediately prior to any discussion by such body matters relating to such business entity, the nature of his interest in that business entity. The disclosure statement shall be entered in the minutes of the meeting.

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Gifts are to be avoided

- Accepting anything of value from a business or individual seeking to do business or doing business with the County, when acceptance of such could reasonably be considered to impair your professional and independent judgment

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Does not apply to:

- an occasional non-pecuniary gift having a value of less than \$50;
- an award publicly presented;
- any bona fide loan made in the ordinary course of business; or
- political campaign contributions actually used in a political campaign.

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17-16a-8. Investment creating conflict of interest

- Any personal interest of, or investment by, any elected or appointed official of a county which creates a potential or actual conflict between the official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 17-16a-6.

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17-16a-9. Inducing officer to violate provisions prohibited.

- No person shall induce or seek to induce any appointed or elected officer to violate any of the provisions of this part.

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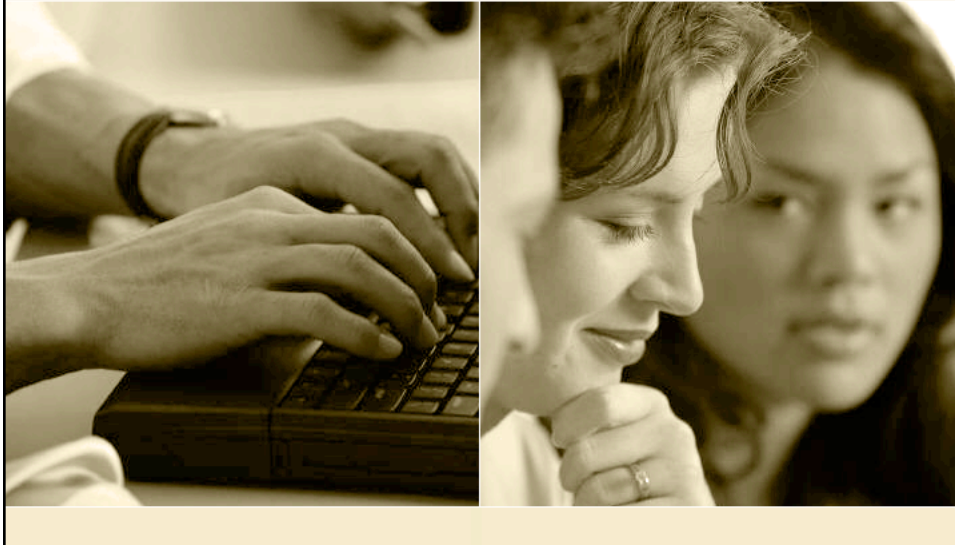
Open Meetings

- Purpose of the Act is to ensure that the business of the people be acted on openly and that the public entity's deliberations be conducted openly.
(UCA 52-4-1)

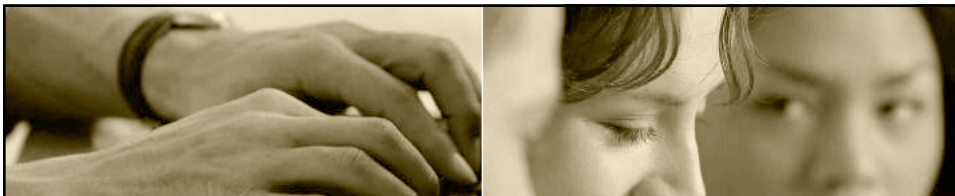
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OPEN MEETINGS & GRAMA

Some Basic Concepts



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Open Meetings

- Purpose of the Act is to ensure that the business of the people be acted on openly and that the public entity's deliberations be conducted openly.
- UCA Section 52-4-1 et seq.

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Applies to Meetings of:

- Public bodies of more than two persons
- Which expend, disburse, or are supported by public funds
- And are vested with authority to make decisions regarding public business

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Meetings are OPEN unless:

- The Closed Meeting has been approved by a 2/3 vote by the members of the body and
- It is closed for the purpose of:
 - Character, competence, health, of an individual
 - Collective bargaining strategy
 - Pending or imminent Litigation strategy
 - Discussions of sale lease or purchase of property
 - Discussions regarding deployment of safety personnel and devices
 - Investigative proceedings of criminal misconduct

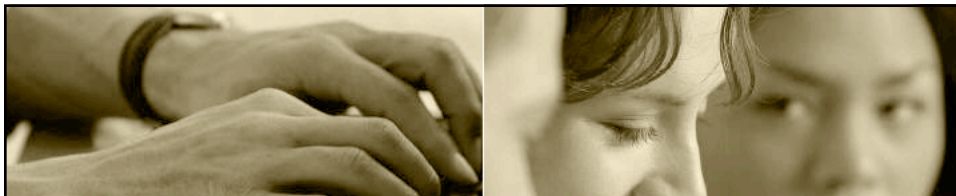
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NOTICE

- Give annual notice of regular meeting schedule showing date time and place
- Give 24 hrs notice of the agenda
- Public notice is given by posting in the principal office AND in a newspaper of general circulation
- Exception may be made for emergency situations as long as an attempt to notify all members has been made

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Minutes and other records

- Written minutes constitute the record of the official action taken during a meeting
- Recordings may be made by any person
- Recordings made by the County shall be public records to be made available in a reasonable amount of time
- Officially recorded meetings shall be converted to writing in a reasonable amount of time

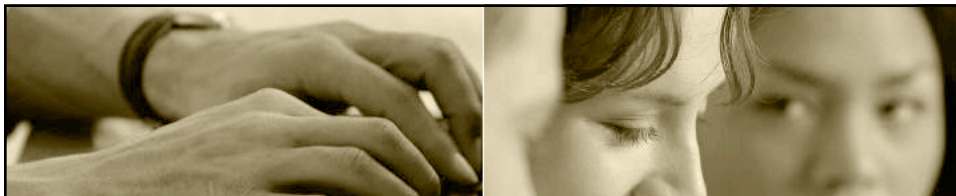
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Closed meetings

- Must be taped or have detailed minutes unless character-competence or security
- Tape recordings and minutes of closed meetings are Protected Records under GRAMA

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GRAMA Requirements

- Minutes and recordings of open meetings are considered public records
- Public records must be disclosed upon request.
- Every person has a right to inspect public records free of charge and to make a copy of public records subject to some restrictions (63-2-201)

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GRAMA Requirements

- During normal working hours (63-2-201)
- The County may charge a fee for the reasonable costs of producing a duplicate—this may include employee time in retrieval and etc., as well as copying costs (63-2-203)

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GRAMA Requirements

- A request for any document should be made in writing:
 - Name
 - Mailing address
 - Daytime phone
 - Description of the records (204)
- The request should identify the record with “reasonable specificity”(201)

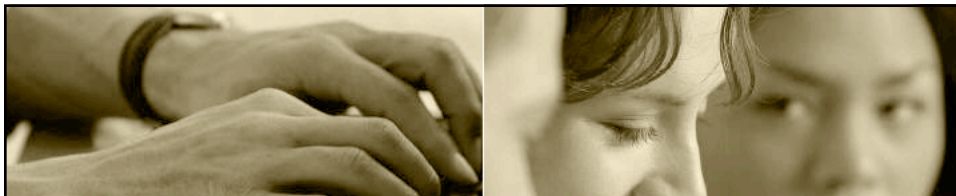
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GRAMA Requirements

- If the request involves more than 50 pages of documents then you may allow the requesters to have access to the facilities and make the copies themselves (201)

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Protected Records

- Minutes and recordings of Closed Meetings are protected.
- Protected records may only be disclosed (63-2-202):
 - To the person who submitted the record
 - Pursuant to a court order (not a subpoena)
 - Anyone who has power of attorney and releases from all parties whose interests were sought to be protected by the protected classification
 - To mobile home park owners pursuant to 41-1a-116

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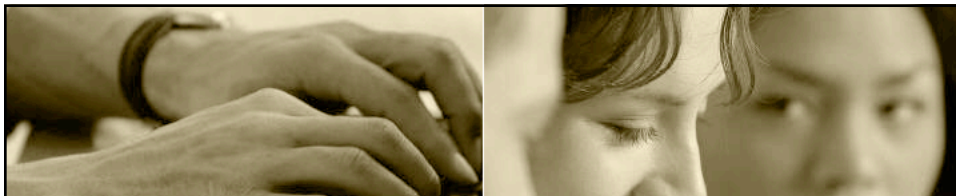


Protected Records

- Shall be disclosed to other governmental entities if that entity:
 - Generally keeps such records
 - Is doing a criminal, civil or administrative investigation
 - Statutorily obligated to conduct an audit, or
 - Collects such records for sentencing or parole purposes

UCA 63-2-206

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Protected Records

- County shall provide records to a governmental entity:
 - If it is entitled by law to inspect the record, or
 - If it is required to inspect the record in order to participate in a federal program
- Should obtain evidence of requestor's identity before disclosing protected records

UCA 63-2-206

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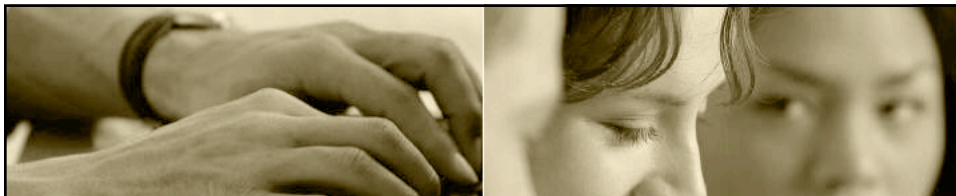


Time limits under GRAMA

- As soon as reasonably possible you must respond denying--or granting and providing
- No later than 10 days after written request, or 5 days if it is demonstrated that expedited response benefits the public
- Notify of extraordinary circumstances

UCA 63-2-204

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In closing

- You and other county officials are under greater scrutiny. You must avoid even the appearance of impropriety.
- Take time to evaluate your conduct from a third person perspective.
- Equality and fairness.
- Open meetings.
- Follow the law of disclosure.

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